

Senate File 2293 - Introduced

SENATE FILE 2293
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3066)

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce, providing
3 penalties, and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.22A, subsection 2, paragraph g, Code
2 2011, is amended by striking the paragraph.

3 Sec. 2. Section 502.412, subsection 3, Code 2011, is amended
4 to read as follows:

5 3. *Disciplinary penalties — registrants.* If the
6 administrator finds that the order is in the public interest
7 and subsection 4, paragraphs "a" through "f", "h", "i", "j",
8 "l", or "m", authorizes the action, an order under this chapter
9 may censure, impose a bar, or impose a civil penalty in an
10 amount not to exceed a maximum of ~~five~~ ten thousand dollars
11 for a single violation or ~~five hundred thousand~~ one million
12 dollars for more than one violation, or in an amount as agreed
13 to by the parties, on a registrant, and, if the registrant is
14 a broker-dealer or investment adviser, a partner, officer,
15 director, or person having a similar status or performing
16 similar functions, or a person directly or indirectly in
17 control, of the broker-dealer or investment adviser.

18 Sec. 3. Section 502.604, subsection 4, Code Supplement
19 2011, is amended to read as follows:

20 4. *Civil penalty — restitution — corrective action.* In a
21 final order under subsection 3, the administrator may impose a
22 civil penalty up to an amount not to exceed a maximum of ~~five~~
23 ten thousand dollars for a single violation or ~~five hundred~~
24 ~~thousand~~ one million dollars for more than one violation, or
25 in an amount as agreed to by the parties, order restitution,
26 or take other corrective action as the administrator deems
27 necessary and appropriate to accomplish compliance with
28 the laws of the state relating to all securities business
29 transacted in the state.

30 Sec. 4. Section 502.604, Code Supplement 2011, is amended by
31 adding the following new subsection:

32 NEW SUBSECTION. 5A. *Failure to obey cease and desist*
33 *order.* A person who fails to obey a valid cease and desist
34 order issued by the administrator under this section may, after
35 notice and opportunity for a hearing, be subject to a civil

1 penalty in an amount of not less than one thousand dollars and
2 not to exceed ten thousand dollars for violating the order.
3 Each day the failure to obey the cease and desist order occurs
4 or continues constitutes a separate violation of the order.
5 The penalties provided in this subsection are in addition to,
6 and not exclusive of, other remedies that may be available.

7 Sec. 5. Section 505.8, subsection 10, Code Supplement 2011,
8 is amended to read as follows:

9 10. The commissioner may, after a hearing conducted
10 pursuant to chapter 17A, assess fines or penalties; assess
11 costs of an examination, investigation, or proceeding;
12 order restitution; or take other corrective action as the
13 commissioner deems necessary and appropriate to accomplish
14 compliance with the laws of the state relating to all insurance
15 business transacted in the state.

16 Sec. 6. NEW SECTION. 506.14 Voluntary dissolution of
17 domestic mutual insurance companies.

18 1. Any plan for voluntary dissolution of a domestic
19 mutual insurance company licensed to transact the business
20 of insurance under chapter 508, 515, 518, or 518A shall be
21 presented for approval by the commissioner not less than ninety
22 days in advance of notice of the plan to policyholders.

23 2. The commissioner shall approve the plan if the
24 commissioner finds that the plan complies with all applicable
25 provisions of law and is fair and equitable to the domestic
26 mutual insurance company and its policyholders.

27 Sec. 7. Section 507.10, subsection 4, paragraph a, Code
28 2011, is amended to read as follows:

29 a. All orders entered pursuant to subsection 3, paragraph
30 "a", shall be accompanied by findings and conclusions resulting
31 from the commissioner's consideration and review of the
32 examination report, relevant examiner work papers, and any
33 written submissions or rebuttals. Any such order is a final
34 administrative decision and may be appealed pursuant to chapter
35 17A, and shall be served upon the company by certified mail,

1 together with a copy of the adopted examination report. Within
2 ~~thirty days of the issuance of the adopted report, the company~~
3 ~~shall file affidavits executed by each of its directors stating~~
4 ~~under oath that they have received a copy of the adopted report~~
5 ~~and related orders. The board of directors of the company~~
6 shall timely review the adopted report. The minutes of the
7 meeting of the board at which the adopted report is considered
8 shall reflect that each member of the board has reviewed the
9 adopted report.

10 Sec. 8. Section 507.14, subsection 4, Code 2011, is amended
11 to read as follows:

12 4. Confidential documents, materials, information,
13 administrative or judicial orders, or other actions may be
14 disclosed to a regulatory official of any state, federal
15 agency, or foreign country provided that the recipients are
16 required, under their law, to maintain their confidentiality.
17 Confidential records may be disclosed to the national
18 association of insurance commissioners, the international
19 association of insurance supervisors, and the bank for
20 international settlements, provided that the association
21 certifies associations and the bank certify by written
22 statement that the confidentiality of the records will be
23 maintained.

24 Sec. 9. Section 507B.4, Code 2011, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 20. *Refund of unearned premium.* Failure of
27 an issuer of a Medicare supplement policy to adjust coverage
28 dates to terminate coverage on the date that coincides with
29 the effective date of a policy or contract providing any
30 hospital, medical, prescription drug, or other health care
31 benefits pursuant to 42 U.S.C. ch. 7, subch. XVIII, Part C,
32 commonly known as Medicare Part C, pursuant to Tit. XVIII of
33 the federal Social Security Act, or any regulations issued
34 pursuant thereto, and to refund any unearned premium to the
35 insured based on that revised termination date, where the

1 policyholder or contract holder provides written notice to the
2 issuer that the policyholder or contract holder desires to
3 terminate the policy or contract and provides documentation
4 substantiating that the policyholder or contract holder has
5 coverage commonly known as Medicare Part C. This subsection
6 shall not be construed to require a refund of premium for any
7 period of time in excess of five years prior to the date that
8 written notice is provided to an issuer.

9 Sec. 10. NEW SECTION. 507C.17A Rehabilitation or
10 liquidation of a domestic insurer covered under the federal
11 Dodd-Frank Wall Street Reform and Consumer Protection Act.

12 1. The provisions of this section apply in accordance
13 with Tit. II of the federal Dodd-Frank Wall Street Reform and
14 Consumer Protection Act, Pub. L. No. 111-203, 12 U.S.C. § 5301
15 et seq., with respect to a domestic insurer that is a covered
16 financial company, as that term is defined under 12 U.S.C. §
17 5381.

18 2. The commissioner may petition the district court for an
19 order of rehabilitation or liquidation of a domestic insurer
20 pursuant to this section on any of the following grounds:

21 a. Upon a determination and notification given by the
22 secretary of the treasury of the United States, in consultation
23 with the president of the United States, that the insurer is
24 a covered financial company satisfying the requirements of
25 12 U.S.C. § 5383(b), and the board of directors, or a body
26 performing similar functions of a board of directors, of the
27 insurer acquiesces or consents to the appointment of a receiver
28 pursuant to 12 U.S.C. § 5382(a)(1)(A)(i) with such consent
29 to be considered as consent to an order of rehabilitation or
30 liquidation.

31 b. Upon an order of the United States district court for
32 the District of Columbia under 12 U.S.C. § 5382(a)(1)(A)(iv)(I)
33 granting the petition of the secretary of the treasury of
34 the United States concerning the insurer under 12 U.S.C. §
35 5382(a)(1)(A)(i).

1 *c.* A petition by the secretary of the treasury of the United
2 States concerning the insurer is granted by operation of law
3 under 12 U.S.C. § 5382(a)(1)(A)(v).

4 3. Notwithstanding any other provision of law to the
5 contrary, after notice to the insurer, a district court
6 may grant an order of rehabilitation or liquidation within
7 twenty-four hours after the filing of such a petition pursuant
8 to this section.

9 4. If the district court does not make a determination on a
10 petition for an order of rehabilitation or liquidation filed by
11 the commissioner pursuant to this section within twenty-four
12 hours after the filing of the petition, the order shall be
13 deemed granted by operation of law upon the expiration of the
14 twenty-four-hour period.

15 *a.* At the time that an order is deemed granted under this
16 subsection, the provisions of this chapter shall be deemed
17 to be in effect, and the commissioner shall be deemed to be
18 affirmed as receiver and to have all of the applicable powers
19 provided by this chapter, regardless of whether an order has
20 been entered by the district court.

21 *b.* If an order is deemed granted by operation of law under
22 this subsection, the district court shall expeditiously enter
23 an order of rehabilitation or liquidation that does all of the
24 following:

25 (1) Is effective as of the date that the order is deemed
26 granted by operation of law.

27 (2) Conforms to the provisions for rehabilitation or
28 liquidation of an insurer contained in this chapter, as
29 applicable.

30 5. An order of rehabilitation or liquidation made pursuant
31 to this section shall not be subject to a stay or injunction
32 pending appeal.

33 6. Nothing in this section shall be construed to supersede
34 or impair any other power or authority of the commissioner or
35 the district court under this chapter.

1 Sec. 11. Section 507E.5, subsection 2, Code 2011, is amended
2 to read as follows:

3 2. The commissioner may share documents, materials, or
4 other information, including confidential and privileged
5 documents, materials, or other information, with other
6 state, federal, and international regulatory agencies, with
7 the national association of insurance commissioners and its
8 affiliates or subsidiaries, and with local, state, federal, and
9 international law enforcement authorities, provided that the
10 recipient agrees to maintain the confidential and privileged
11 status of the document, material, or other information,
12 pursuant to Iowa law.

13 Sec. 12. Section 511.8, subsection 14, Code Supplement
14 2011, is amended to read as follows:

15 14. *Urban real estate and personal property.*

16 a. Personal or real property or both located within the
17 United States or the Dominion of Canada, other than real
18 property used or to be used primarily for agricultural,
19 horticultural, ranching or mining purposes, which produces
20 income or which by suitable improvement will produce income.
21 However, personal property acquired under this subsection shall
22 be acquired for the purpose of entering into a contract for
23 the sale or for a use under which the contractual payments
24 may reasonably be expected to result in the recovery of the
25 investment and an investment return within the anticipated
26 useful life of the property. Legal title to the real property
27 may be acquired subject to a contract of sale.

28 b. "Real property" as used in this subsection includes a all
29 of the following:

30 (1) A leasehold of real estate, ~~an.~~

31 (2) An undivided interest in a leasehold of real estate, ~~and~~
32 an.

33 (3) An undivided interest in the fee title of real estate.

34 (4) A controlling membership, partnership, shareholder, or
35 trust interest in any entity created solely for the purpose

1 of owning and operating any of the interests described in
2 subparagraph (1), (2), or (3), if the entity is expressly
3 limited to that purpose within its organizational documents.

4 c. Investments under this subsection are not eligible in
5 excess of ten percent of the legal reserve.

6 Sec. 13. Section 511.8, subsection 19, Code Supplement
7 2011, is amended to read as follows:

8 19. *Other foreign government or corporate obligations.*

9 a. Bonds or other evidences of indebtedness, not to
10 include currency, issued, assumed, or guaranteed by a foreign
11 government other than Canada, or by a corporation incorporated
12 under the laws of a foreign government other than Canada. Such
13 governmental obligations must be valid, legally authorized
14 and issued, and on the date of acquisition have predominantly
15 investment qualities and characteristics as provided by
16 rule. Such corporate obligations must meet the qualifications
17 established in subsection 5 for bonds and other evidences of
18 indebtedness issued, assumed, or guaranteed by a corporation
19 incorporated under the laws of the United States or Canada.
20 Foreign investments authorized by this subsection are not
21 eligible in excess of ~~twenty~~ twenty-five percent of the
22 legal reserve of the life insurance company or association.
23 Investments in obligations of a foreign government, other
24 than Canada and, the United Kingdom, and foreign governments
25 rated AAA by Standard and Poor's division of McGraw-Hill
26 companies, inc., or Aaa by Moody's investors services, inc.,
27 are not eligible in excess of two percent of the legal reserve
28 in the securities of foreign governments of any one foreign
29 nation. Investments in obligations of the United Kingdom are
30 not eligible in excess of four percent of the legal reserve.
31 Investments in obligations of foreign governments rated either
32 AAA by Standard and Poor's division of McGraw-Hill companies,
33 inc., or Aaa by Moody's investors services, inc., are not
34 eligible in excess of five percent of the legal reserve.
35 Investments in a corporation incorporated under the laws of a

1 foreign government other than Canada are not eligible in excess
2 of two percent of the legal reserve in the securities of any
3 one foreign corporation.

4 b. Eligible investments in foreign obligations under this
5 subsection are limited to the types of obligations specifically
6 referred to in this subsection. This subsection in no way
7 limits or restricts investments in Canadian obligations and
8 securities specifically authorized in other subsections of this
9 section.

10 c. This subsection shall not authorize investment in
11 evidences of indebtedness issued, assumed, or guaranteed by a
12 foreign government which engages in a consistent pattern of
13 gross violations of human rights.

14 Sec. 14. Section 511.8, subsection 23, Code Supplement
15 2011, is amended by adding the following new paragraph:

16 NEW PARAGRAPH. g. For securities loaned pursuant to this
17 subsection that are included in the legal reserve of the life
18 insurance company or association, the collateral received for
19 the loaned securities shall not be eligible for inclusion in
20 the legal reserve.

21 Sec. 15. Section 511.40, Code 2011, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 5. a. The gross amount of premiums
24 received by a life insurance company or association for an
25 employer-owned life insurance contract which has not been
26 allocated to another state shall be allocated to this state
27 for purposes of section 432.1, subsection 1, if either of the
28 following is applicable:

29 (1) The contract is issued or delivered in this state.

30 (2) The company or association is domiciled in this state.

31 b. To the extent that premiums are allocated to this state
32 pursuant to paragraph "a", the provisions of section 505.14 are
33 not applicable to those premiums.

34 c. As used in this subsection, "*employer-owned life*
35 *insurance contract*" means a policy which provides coverage on

1 a life for which the employer has an insurable interest under
2 this section or a similar provision of the laws of another
3 state and the policy is owned by either the employer or a trust
4 established by the employer for the benefit of the employer or
5 the employer's active or retired employees.

6 Sec. 16. Section 514.4, Code 2011, is amended to read as
7 follows:

8 **514.4 Directors.**

9 1. At least two-thirds of the directors of a hospital
10 service corporation, medical service corporation, dental
11 service corporation, or pharmaceutical or optometric service
12 corporation subject to this chapter shall be at all times
13 subscribers and not more than one-third of the directors
14 shall be providers as provided in this section. The board of
15 directors of each corporation shall consist of at least nine
16 members.

17 2. A subscriber director is a director of the board of
18 a corporation who is a subscriber and who is not a provider
19 of health care pursuant to section 514B.1, subsection 7, a
20 person who has material financial or fiduciary interest in the
21 delivery of health care services or a related industry, an
22 employee of an institution which provides health care services,
23 or a spouse or a member of the immediate family of such a
24 person. However, a subscriber director of a dental service
25 corporation may be an employee, officer, director, or trustee
26 of a hospital or other entity that does not have a provider
27 contract with the dental service corporation. A subscriber
28 director of a hospital or medical service corporation shall be
29 a subscriber of the services of that corporation.

30 3. A provider director of a corporation subject to this
31 chapter shall be at all times a person who has a material
32 financial interest in or is a fiduciary to or an employee
33 of or is a spouse or member of the immediate family of a
34 provider having a contract with such corporation to render to
35 its subscribers the services of such corporation or who is a

1 hospital trustee.

2 4. A director may serve on a board of only one corporation
3 at a time subject to this chapter.

4 5. The commissioner of insurance shall adopt rules pursuant
5 to chapter 17A to implement the process of the election of
6 subscriber directors of the board of directors of a corporation
7 to ensure the representation of a broad spectrum of subscriber
8 interest on each board and establish criteria for the selection
9 of nominees. The rules shall provide for an independent
10 subscriber nominating committee to serve until the composition
11 of the board of directors meets the percentage requirements
12 of this section. Once the composition requirements of this
13 section are met, the nominations for subscriber directors
14 shall be made by the subscriber directors of the board under
15 procedures the board establishes which shall also permit
16 nomination by a petition of at least fifty subscribers. The
17 board shall also establish procedures to permit nomination of
18 provider directors by petition of at least fifty participating
19 providers. A member of the board of directors of a corporation
20 subject to this chapter shall not serve on the independent
21 subscriber nominating committee. The nominating committee
22 shall consist of subscribers as defined in this section. The
23 rules of the commissioner of insurance shall also permit
24 nomination of subscriber directors by a petition of at least
25 fifty subscribers, and nomination of provider directors
26 by a petition of at least fifty participating providers.
27 These petitions shall be considered only by the independent
28 nominating committee during the duration of the committee.
29 Following the discontinuance of the committee, the petition
30 process shall be continued and the board of directors of the
31 corporation shall consider the petitions. The independent
32 subscriber nominating committee is not subject to chapter 17A.
33 The nominating committee shall not receive per diem or expenses
34 for the performance of their duties.

35 6. Population factors, representation of different

1 geographic regions, and the demography of the service area of
2 the corporation subject to this chapter shall be considered
3 when making nominations for the board of directors of a
4 corporation subject to this chapter.

5 7. A corporation serving states in addition to Iowa shall be
6 required to implement this section only for directors who are
7 residents of Iowa and elected as board members from Iowa.

8 Sec. 17. Section 514E.1, Code 2011, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 12A. "*HIIOWA-FED*" means the limited
11 liability company organized by the association for the
12 purposes of administering the state of Iowa temporary high-risk
13 insurance pool program pursuant to a contract with the United
14 States department of health and human services.

15 Sec. 18. Section 514E.2, subsection 2, Code 2011, is amended
16 by striking the subsection and inserting in lieu thereof the
17 following:

18 2. a. The board of directors of the association shall
19 consist of seven voting members and seven nonvoting members.
20 The voting members shall be appointed by the governor, subject
21 to confirmation by the senate. The governor shall designate
22 one voting member as chairperson and one as vice chairperson.

23 b. The voting members of the board of directors shall be
24 appointed by the governor as follows:

25 (1) Two persons who represent the interests of small
26 business from nominations made to the governor by nationally
27 recognized groups that represent the interests of small
28 business.

29 (2) Two persons who represent the interests of consumers
30 from nominations made to the governor by nationally recognized
31 groups that represent the interests of consumers.

32 (3) One person who is an insurance producer licensed under
33 chapter 522B.

34 (4) One person who is a health care actuary or economist
35 with expertise in health insurance.

1 (5) One person who is a health care provider.

2 *c.* The nonvoting members are as follows:

3 (1) The commissioner or the commissioner's designee.

4 (2) The director of human services or the director's
5 designee.

6 (3) The director of public health or the director's
7 designee.

8 (4) Four members of the general assembly, one appointed
9 by the speaker of the house of representatives, one appointed
10 by the minority leader of the house of representatives,
11 one appointed by the majority leader of the senate, and one
12 appointed by the minority leader of the senate.

13 *d.* Meetings of the board of directors shall be held at
14 the call of the chairperson or upon the request of at least
15 two voting members. Four voting members shall constitute a
16 quorum and the affirmative vote of four voting members shall be
17 necessary for any action taken by the board.

18 *e.* The voting members of the board of directors shall be
19 appointed for staggered terms of three years within sixty days
20 after the effective date of this Act and by December 15 of each
21 year thereafter. The initial terms of the voting members of
22 the board shall be staggered at the discretion of the governor.
23 A voting member of the board is eligible for reappointment.
24 The governor shall fill a vacancy on the board in the same
25 manner as the original appointment for the remainder of the
26 term.

27 *f.* Members of the board may be reimbursed from the moneys
28 of the association for expenses incurred by them as members,
29 but shall not be otherwise compensated by the association for
30 their services.

31 Sec. 19. Section 514E.2, subsection 4, Code 2011, is amended
32 to read as follows:

33 4. *a.* The plan of operation may provide that the powers
34 and duties of the association may be delegated to a person who
35 will perform functions similar to those of the association.

1 A delegation under this section takes effect only upon the
2 approval of both the board of directors and the commissioner.
3 The commissioner shall not approve a delegation unless
4 the protections afforded to the insured are substantially
5 equivalent to or greater than those provided under this
6 chapter.

7 b. A delegation made to a person pursuant to this subsection
8 shall be subject to annual review by the government oversight
9 standing committees of the general assembly. Within sixty days
10 after the effective date of this Act and annually thereafter,
11 any person to whom the powers and duties of the association
12 have been delegated pursuant to this subsection shall submit a
13 report to the government oversight committees setting forth the
14 following:

15 (1) The scope of the functions performed by the person.

16 (2) Any contractual provisions between the person and the
17 association or between the person and any other entity on
18 behalf of the association.

19 (3) An accounting of the activities and services performed
20 by the person on behalf of the association.

21 (4) An accounting of all payments made to the person by the
22 association, including but not limited to an itemization of the
23 services rendered and the amount of each payment apportioned to
24 the performance of each activity or service.

25 (5) Any other information requested by the board of
26 directors of the association, the commissioner of insurance, or
27 the government oversight committees.

28 Sec. 20. Section 514E.2, Code 2011, is amended by adding the
29 following new subsection:

30 NEW SUBSECTION. 5A. The association shall accept
31 third-party payment of premiums for an individual enrolled in
32 health insurance coverage from the association.

33 Sec. 21. Section 514E.2, subsection 7, Code 2011, is amended
34 by adding the following new paragraph:

35 NEW PARAGRAPH. Ob. Following the close of each calendar

1 year, HIPIOWA-FED shall determine the net premiums and
2 payments, the expenses of administration, and the incurred
3 losses of the program for the year. HIPIOWA-FED shall certify
4 the amount of any net loss for the preceding calendar year to
5 the commissioner of insurance and director of revenue and to
6 the United States department of health and human services. In
7 the event that additional federal funding is not provided to
8 HIPIOWA-FED to offset the loss, the loss shall be assessed by
9 the association on behalf of HIPIOWA-FED to all members of the
10 association in proportion to their respective shares of total
11 health insurance premiums or payments for subscriber contracts
12 received in Iowa during the second preceding calendar year, or
13 with paid losses in the year, coinciding with or ending during
14 the calendar year or on any other equitable basis as provided
15 in the plan of operation of the association or as required by
16 the United States department of health and human services. In
17 sharing losses, the association, on behalf of HIPIOWA-FED, may
18 abate or defer in any part the assessment of a member, if, in
19 the opinion of the board of the association, payment of the
20 assessment would endanger the ability of the member to fulfill
21 its contractual obligations. The association, on behalf
22 of HIPIOWA-FED, may also provide for an initial or interim
23 assessment against members of the association if necessary to
24 assure the financial capability of HIPIOWA-FED to meet the
25 incurred or estimated claims expenses or operating expenses of
26 the temporary high-risk insurance pool program until the next
27 calendar year is completed. Net gains, if any, must be held at
28 interest to offset future losses or allocated to reduce future
29 premiums.

30 Sec. 22. Section 514E.2, Code 2011, is amended by adding the
31 following new subsections:

32 NEW SUBSECTION. 12A. The association shall be considered a
33 governmental body for purposes of chapter 21 and a government
34 body for purposes of chapter 22. A person to whom the
35 association delegates the duties and powers of the association

1 shall be considered a governmental body for purposes of chapter
2 21 and a government body for purposes of chapter 22 to the
3 extent that the person carries out the powers and duties of the
4 association.

5 NEW SUBSECTION. 12B. HIPIOWA-FED shall be considered a
6 governmental body for purposes of chapter 21 and a government
7 body for purposes of chapter 22. A person to whom the duties
8 and powers of the limited liability company are delegated shall
9 be considered a governmental body for purposes of chapter
10 21 and a government body for purposes of chapter 22 to the
11 extent that the person carries out the powers and duties of the
12 limited liability company.

13 Sec. 23. Section 514J.103, subsection 1, Code Supplement
14 2011, is amended to read as follows:

15 1. Except as provided in subsection 2, this chapter shall
16 apply to all health carriers, including health carriers issuing
17 a policy or certificate that provides coverage for dental care.

18 Sec. 24. Section 514J.103, subsection 2, paragraph a, Code
19 Supplement 2011, is amended to read as follows:

20 a. A policy or certificate that provides coverage only for a
21 specified disease, specified accident or accident-only, credit,
22 disability income, hospital indemnity, long-term care, ~~dental~~
23 ~~care~~, vision care, or any other limited supplemental benefit.

24 Sec. 25. Section 515.26, Code 2011, is amended to read as
25 follows:

26 **515.26 Directors.**

27 The affairs of a company organized as provided by this
28 chapter shall be managed by a number of directors, of not less
29 than five nor more than twenty-one. ~~In the case of a mutual~~
30 ~~company, all such directors shall be policyholders.~~

31 Sec. 26. Section 515.69, subsection 1, Code 2011, is amended
32 to read as follows:

33 1. A stock insurance company organized under or by the
34 laws of any other state or foreign government for the purpose
35 specified in this chapter, shall not, directly or indirectly,

1 take risks or transact business of insurance in this state
2 unless the company ~~has two and one-half million dollars of~~
3 ~~actual paid-up capital, and a surplus in cash or invested in~~
4 ~~securities authorized by law of not less than two and one-half~~
5 ~~million dollars,~~ possesses the actual amount of capital and
6 surplus required of any company organized pursuant to this
7 chapter, or if the company is a mutual insurance company, the
8 actual amount of surplus required of any mutual insurance
9 company organized pursuant to this chapter, exclusive of assets
10 deposited in a state, territory, district, or country for the
11 special benefit or security of those insured in that state,
12 territory, district, or country.

13 Sec. 27. Section 515.136, Code 2011, is amended to read as
14 follows:

15 **515.136 Value of building — liability.**

16 ~~The insurance company or association issuing such policy may~~
17 ~~show the actual value of said property at date of policy, and~~
18 ~~any depreciation in the value thereof before the loss occurred;~~
19 ~~but the said~~ An insurance company or association shall be
20 liable for the actual value of the property insured at the date
21 of the loss, unless such value exceeds the amount stated in the
22 policy.

23 Sec. 28. Section 515A.7, subsection 1, paragraph b,
24 subparagraph (5), Code 2011, is amended to read as follows:

25 (5) An insurer may adopt a ~~scheduled or~~ schedule rating plan
26 providing for credits or debits in an amount not exceeding the
27 maximum modification allowed as set forth by the commissioner
28 by rule. This amount shall be in addition to the permitted
29 deviations set forth in subparagraphs (1) through (4).

30 Sec. 29. Section 518.14, subsection 4, paragraph f,
31 unnumbered paragraph 1, Code 2011, is amended to read as
32 follows:

33 Common stocks, common stock equivalents, mutual fund
34 shares, securities convertible into common stocks or common
35 stock equivalents, or preferred stocks issued or guaranteed

1 by a corporation incorporated under the laws of the United
2 States or a state, or the laws of Canada or a province of
3 Canada, or limited partnerships publicly traded on a nationally
4 established stock exchange in the United States. Aggregate
5 investments in nondividend paying stocks shall not exceed five
6 percent of surplus.

7 Sec. 30. Section 518A.12, subsection 4, paragraph f,
8 unnumbered paragraph 1, Code 2011, is amended to read as
9 follows:

10 Common stocks, common stock equivalents, mutual fund
11 shares, securities convertible into common stocks or common
12 stock equivalents, or preferred stocks issued or guaranteed
13 by a corporation incorporated under the laws of the United
14 States or a state, or the laws of Canada or a province of
15 Canada, or limited partnerships publicly traded on a nationally
16 established stock exchange in the United States. Aggregate
17 investments in nondividend paying stocks shall not exceed five
18 percent of surplus.

19 Sec. 31. Section 521E.1, subsection 4, unnumbered paragraph
20 1, Code 2011, is amended to read as follows:

21 "*Domestic insurer*" means an insurance company domiciled in
22 this state and licensed to transact the business of insurance
23 under chapter 508, 512B, 515, or 520, except that it shall not
24 include any of the following:

25 Sec. 32. Section 521E.1, subsection 4, paragraph b, Code
26 2011, is amended by striking the paragraph.

27 Sec. 33. Section 521E.1, subsections 6 and 7, Code 2011, are
28 amended to read as follows:

29 6. "*Foreign insurer*" means an insurance company not
30 domiciled in this state which is licensed to transact the
31 business of insurance in this state under chapter 508, 512B,
32 515, or 520.

33 7. "*Life and health insurer*" means an insurance company
34 licensed under chapter 508, a fraternal benefit society
35 organized under chapter 512B, or a licensed property and

1 casualty insurer writing only accident and health insurance
2 under chapter 515.

3 Sec. 34. Section 521E.3, subsection 1, paragraph a,
4 subparagraph (2), Code Supplement 2011, is amended to read as
5 follows:

6 (2) For a life and health insurer, the insurer's
7 total adjusted capital is greater than or equal to its
8 company-action-level risk-based capital but less than the
9 product of its authorized-control-level risk-based capital and
10 ~~two and one-half~~ three, and has a negative trend.

11 Sec. 35. Section 522C.6, Code 2011, is amended by adding the
12 following new subsection:

13 NEW SUBSECTION. 3. a. A licensed public adjuster who,
14 after hearing, is found to have violated this chapter or any
15 rule adopted or order issued pursuant to this chapter, may
16 be ordered to cease and desist from engaging in the conduct
17 resulting in the violation and may be assessed a civil penalty
18 as provided in section 505.7A.

19 b. A person who, after hearing, is found to have violated
20 this chapter by acting as a public adjuster without proper
21 licensure may be ordered to cease and desist from engaging in
22 the conduct resulting in the violation and may be assessed a
23 civil penalty according to the provisions of chapter 507A.

24 c. If a person has engaged, is engaging, or is about to
25 engage in any act or practice constituting a violation of
26 this chapter or any rule adopted or order issued pursuant to
27 this chapter, the commissioner may issue a summary order that
28 includes a brief statement of findings of fact, conclusions of
29 law, and policy reasons for the order, and that directs the
30 person to cease and desist from engaging in the act or practice
31 constituting the violation and that may assess a civil penalty
32 or take other affirmative action as in the judgment of the
33 commissioner is necessary to assure that the person complies
34 with the requirements of this chapter as provided in chapter
35 507A.

1 *d.* If a person does not comply with an order issued pursuant
2 to this subsection, the commissioner may petition a court of
3 competent jurisdiction to enforce the order. The court shall
4 not require the commissioner to post a bond in an action or
5 proceeding under this subsection. If the court finds, after
6 notice and opportunity for hearing, that the person is not in
7 compliance with an order, the court may adjudge the person to
8 be in civil contempt of the order. The court may impose a civil
9 penalty against the person for contempt in an amount not less
10 than three thousand dollars but not greater than ten thousand
11 dollars for each violation and may grant any other relief that
12 the court determines is just and proper in the circumstances.

13 Sec. 36. Section 598.20A, Code 2011, is amended to read as
14 follows:

15 **598.20A Beneficiary revocation — life insurance.**

16 1. Except as preempted by federal law, if a decree of
17 dissolution, annulment, or separate maintenance is issued after
18 ~~an insured~~ the policy owner of an insurance contract insuring
19 the policy owner's own life has designated the ~~insured's policy~~
20 owner's spouse or one or more relatives of the ~~insured's policy~~
21 owner's spouse as a beneficiary under a life insurance policy
22 in effect on the date of the decree, a provision in the life
23 insurance policy making such a designation is voided by the
24 issuance of the decree unless any of the following apply:

25 *a.* The decree designates the ~~insured's policy owner's~~ former
26 spouse or one or more relatives of the ~~insured's policy owner's~~
27 spouse as beneficiary.

28 *b.* After issuance of the decree, the ~~insured policy owner~~
29 executes a designation of beneficiary form provided by the
30 insurance company naming the ~~insured's policy owner's~~ former
31 spouse or one or more relatives of the ~~insured's policy owner's~~
32 former spouse as beneficiary.

33 *c.* The ~~insured policy owner~~ and the ~~insured's policy owner's~~
34 former spouse remarry.

35 2. If a beneficiary designation is not effective pursuant to

1 subsection 1, the benefits or proceeds of the life insurance
2 policy are payable to an alternate beneficiary, or if there is
3 no alternate beneficiary, to the estate of the ~~insured~~ policy
4 owner.

5 3. An insurer who pays benefits or proceeds of a life
6 insurance policy to a beneficiary under a designation that is
7 void pursuant to subsection 1 is not liable for payment to an
8 alternative beneficiary as provided under subsection 2 unless
9 both of the following apply:

10 a. At least ten days prior to payment of the benefits
11 or proceeds of the life insurance policy to the designated
12 beneficiary, the insurer receives written notice at the home
13 office of the insurer that the designation of the beneficiary
14 is not effective pursuant to subsection 1.

15 b. The insurer has failed to interplead the benefits or
16 proceeds of the life insurance policy in a court of competent
17 jurisdiction in accordance with the rules of civil procedure.

18 4. This section does not limit the right of a beneficiary
19 to seek recovery from any person or entity that erroneously
20 receives or collects the benefits or proceeds from a life
21 insurance policy.

22 5. This section does not affect the right of ~~an insured's~~
23 ~~former~~ a policy owner's spouse to assert an ownership interest
24 in a life insurance policy insuring the life of the policy
25 owner that is not disclosed to the ~~insured's~~ policy owner's
26 spouse prior to the decree of dissolution, annulment, or
27 separate maintenance and that is not addressed by the decree.

28 6. For purposes of this section, "*relative of the insured's*
29 *policy owner's spouse*" means a person who is related to the
30 ~~insured's~~ policy owner's former spouse by blood, adoption,
31 or affinity, and who, subsequent to a decree of dissolution,
32 annulment, or separate maintenance, ceases to be related to the
33 ~~insured~~ policy owner by blood, adoption, or affinity.

34 Sec. 37. REQUEST FOR AMENDMENT OF CONTRACT PROVISIONS
35 BY HIPIOWA-FED. Within thirty days after enactment of this

1 Act, HIPIOWA-FED, the limited liability company organized by
2 the Iowa comprehensive health insurance association for the
3 purpose of administering the state of Iowa temporary high-risk
4 insurance pool program pursuant to a contract with the United
5 States department of health and human services, shall request
6 that the United States department of health and human services
7 amend the requirements of the contract between HIPIOWA-FED
8 and the department to allow HIPIOWA-FED to accept third-party
9 payment of premiums for an individual enrolled in the program.

10 Sec. 38. EFFECTIVE UPON ENACTMENT. The following
11 provision or provisions of this Act, being deemed of immediate
12 importance, take effect upon enactment:

- 13 1. The section of this Act enacting section 507C.17A.
- 14 2. The section of this Act amending section 514E.1.
- 15 3. The sections of this Act amending section 514E.2.

16 EXPLANATION

17 This bill relates to various matters under the purview of the
18 insurance division of the department of commerce.

19 DEPARTMENT OF PUBLIC HEALTH. Code section 135.22A(2)(g)
20 is stricken to remove the commissioner of insurance from the
21 membership of the advisory council on brain injuries.

22 UNIFORM SECURITIES ACT (BLUE SKY LAW). Code section
23 502.412(3) is amended to increase the amount of the
24 disciplinary penalty for registrants that the administrator
25 (commissioner of insurance or the commissioner's deputy) can
26 impose for a violation of the Code chapter from a maximum of
27 \$5,000 to \$10,000 for a single violation, and from \$500,000 to
28 \$1 million for more than one violation, or in such amount as
29 agreed to by the parties.

30 Code section 502.604(4) is amended to increase the amount
31 of a civil penalty the administrator can impose against a
32 person for engaging in an act, practice, or course of business
33 in violation of the Code chapter from a maximum of \$5,000 to
34 \$10,000 for a single violation, and from \$500,000 to \$1 million
35 for more than one violation, or in an amount agreed to by the

1 parties.

2 New Code section 502.604(5A) provides that a person
3 who fails to obey a valid cease and desist order issued by
4 the administrator may be subject to a civil penalty in an
5 amount of not less than \$1,000 and not more than \$10,000 for
6 violating the order. Each day the failure to obey continues
7 constitutes a separate violation. The penalties provided in
8 this subsection are in addition to, and not exclusive of other
9 remedies that may be available.

10 INSURANCE DIVISION. Code section 505.8(10) is amended to
11 allow the commissioner to assess the costs of the examination
12 of a regulated entity necessary to accomplish compliance with
13 the insurance laws of this state.

14 DOMESTIC INSURANCE COMPANIES. New Code section 506.14
15 provides that any plan for the voluntary dissolution of a
16 domestic mutual insurance company licensed in this state shall
17 be presented for approval by the commissioner not less than 90
18 days prior to notice of the plan to the policyholders. The
19 commissioner must approve the plan if it complies with all
20 applicable laws and is fair and equitable to the company and to
21 its policyholders.

22 EXAMINATION OF INSURANCE COMPANIES. Code section
23 507.10(4)(a) is amended to allow the board of directors of
24 an insurance company to signal that each member has reviewed
25 an examination report with a notation in the board's meeting
26 minutes instead of by filing affidavits indicating that each
27 member has received a copy of the report.

28 Code section 507.14 is amended to allow the commissioner
29 to release confidential documents and other materials to the
30 international association of insurance supervisors and the bank
31 for international settlements provided that those entities
32 give written certification that the records will be kept
33 confidential.

34 INSURANCE TRADE PRACTICES. New Code section 507B.4(20)
35 makes it an unfair or deceptive act or practice in the business

1 of insurance for an issuer of a Medicare supplement policy
2 to fail to terminate that coverage and refund any unearned
3 premiums, upon receiving written notice from the policyholder
4 that the policyholder desires to terminate the coverage and has
5 obtained Medicare Part C coverage. An issuer is not required
6 to refund premiums for any period of time in excess of five
7 years prior to the date of receiving such written notice.

8 INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION.

9 New Code section 507C.17A contains provisions that apply in
10 accordance with the federal Dodd-Frank Wall Street Reform and
11 Consumer Protection Act to a domestic insurer that is a covered
12 financial company, as that term is defined in federal law.

13 The bill provides that the commissioner of insurance may
14 file a petition in the state district court for an order of
15 rehabilitation or liquidation of such a domestic insurer upon
16 receiving notice from the secretary of the treasury of the
17 United States that the insurer acquiesces or consents to the
18 appointment of a receiver; upon an order of the United States
19 district court for the District of Columbia as to that insurer;
20 or when a petition of the secretary of the treasury of the
21 United States concerning the insurer is granted by operation
22 of law.

23 Notwithstanding any other provision of law to the contrary,
24 the state district court, after notice to the insurer, may
25 grant an order on such a petition within 24 hours after the
26 filing of the petition. If the district court does not make a
27 determination on the petition within 24 hours of its filing,
28 the order is deemed granted by operation of law upon expiration
29 of the 24-hour period.

30 At the time an order is deemed granted, the provisions of
31 Code chapter 507C are deemed to be in effect, the commissioner
32 is deemed to be affirmed as the receiver and to have all of
33 the applicable powers provided by Code chapter 507C, and the
34 state district court must expeditiously enter an order of
35 rehabilitation or liquidation. An order of rehabilitation or

1 liquidation made pursuant to the provisions of the bill is not
2 subject to a stay or injunction pending appeal.

3 This provision is effective upon enactment.

4 INSURANCE FRAUD. Code section 507E.5(2) is amended to allow
5 the commissioner to share documents with local as well as
6 state, federal, and international law enforcement authorities
7 if the recipient agrees to maintain the confidentiality of
8 confidential and privileged documents that are shared.

9 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
10 511.8(14) is amended to provide that a life insurance company
11 can include in its legal reserve as real property a controlling
12 membership, partnership, shareholder, or trust interest in any
13 entity created solely for the purpose of owning and operating a
14 leasehold of real estate, an undivided interest in a leasehold
15 of real estate, or an undivided interest in the fee title of
16 real estate. The entity must be expressly limited to that
17 purpose by its organizational documents.

18 Code section 511.8(19) is amended to provide that a life
19 insurance company can include in its legal reserve certain
20 foreign investments not in excess of 25, instead of 20,
21 percent of its legal reserve. Investments in obligations of a
22 foreign government rated AAA by Standard and Poor's division
23 of McGraw-Hill companies, inc., or Aaa by Moody's investors
24 services, inc., are eligible for inclusion in the legal reserve
25 up to 5, instead of 2, percent of the legal reserve.

26 Code section 511.8(23) is amended to provide that if
27 securities held in a life insurance company's legal reserve are
28 loaned, the collateral received for the loaned securities is
29 not eligible for inclusion in the legal reserve.

30 New Code section 511.40(5) provides that the gross amount of
31 premiums received by a life insurance company or association
32 for an employer-owned life insurance contract shall be
33 allocated to this state for purposes of calculating the state
34 premium tax if the contract is issued or delivered in this
35 state or the company or association is domiciled in this state.

1 For purposes of the subsection, "employer-owned life insurance
2 contract" means a policy which provides coverage on a life for
3 which the employer has an insurable interest under this Code
4 section or the laws of another state and the policy is owned by
5 either the employer or a trust established by the employer for
6 the benefit of the employer or the employer's active or retired
7 employees.

8 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4
9 is amended to provide that a person who is affiliated with a
10 hospital or other entity that does not have a provider contract
11 with a dental service corporation can serve as a subscriber
12 director of that corporation.

13 IOWA COMPREHENSIVE HEALTH INSURANCE ASSOCIATION. Code
14 section 514E.1 is amended to add a definition of "HIPIOWA-FED"
15 which is a limited liability company organized by the Iowa
16 comprehensive health insurance association (commonly known
17 as HIP-IOWA) for the purpose of administering the state of
18 Iowa temporary high-risk insurance pool program pursuant to a
19 contract with the United States department of health and human
20 services.

21 Code section 514E.2 is amended by striking the language
22 establishing the existing membership of the board of directors
23 of the association and instead specifying a board consisting of
24 seven voting members representing specified interests appointed
25 by the governor and confirmed by the senate, and seven
26 nonvoting members including the commissioner of insurance,
27 director of human services, and director of public health,
28 or their designees, and four members of the general assembly
29 appointed by legislative leadership. The new board members
30 must be appointed within 60 days after the effective date of
31 the bill.

32 Code section 514E.2 is amended to provide that if the
33 association delegates its powers and duties to a person,
34 that delegation shall be subject to review by the government
35 oversight standing committees of the general assembly and the

1 person shall be subject to review and submit a report to those
2 committees which includes specified information within 60 days
3 after the effective date of the bill and annually thereafter.

4 Code section 514E.2 is amended to require the association
5 to accept third-party payment of premiums for an individual
6 enrolled in health insurance coverage from the association.
7 Also HIPIOWA-FED is required to request an amendment of its
8 contract with the United States department of health and human
9 services within 30 days after the bill is enacted to allow
10 HIPIOWA-FED to accept third-party payment of premiums for
11 individuals enrolled in that program.

12 Code section 514E.2 is amended to allow HIPIOWA-FED to
13 assess health insurance carriers in the state if the program
14 incurs losses and additional federal funding is not provided to
15 offset the losses.

16 Code section 514E.2 is also amended to specify that the
17 association and HIPIOWA-FED and any person to whom their powers
18 and duties are delegated, are considered governmental bodies
19 for purposes of Code chapter 21 (open meetings) and government
20 bodies for purposes of Code chapter 22 (open records) laws.

21 The provisions of the bill amending Code sections 514E.1 and
22 514E.2 are effective upon enactment.

23 EXTERNAL REVIEW OF HEALTH CARE COVERAGE DECISIONS. Code
24 section 514J.103 is amended to provide that procedures for
25 external review of health care coverage decisions apply to
26 coverage for dental care.

27 INSURANCE OTHER THAN LIFE. Code section 515.26 is amended to
28 eliminate a requirement that all of the directors of a mutual
29 company shall be policyholders.

30 Code section 515.69(1) is amended to require that a foreign
31 stock insurance company must possess the actual amount of
32 capital and surplus required of any company organized pursuant
33 to Code chapter 515, or if the insurer is a mutual company,
34 the actual amount of surplus required of any mutual company
35 organized pursuant to Code chapter 515. Currently, a foreign

1 stock insurance company is required to have \$2.5 million of
2 actual paid-up capital, and a surplus in cash or invested in
3 securities authorized by law of not less than \$2.5 million.

4 Code section 515.136 is amended to provide that an insurance
5 company or association is liable for the actual value of the
6 property insured at a date of a loss, unless that value exceeds
7 the amount stated in the policy. Currently, the insurer
8 issuing such a policy may show the actual value of the property
9 at the date of issuance of the policy and any depreciation in
10 the value of the property after a loss occurred but is still
11 liable for the actual value of the property insured on the date
12 of loss or the policy amount, whichever is less.

13 WORKERS' COMPENSATION LIABILITY INSURANCE. Code section
14 515A.7(1)(b)(5) is amended to remove a reference to a
15 "scheduled rating plan", a term that is not defined in the Code
16 chapter.

17 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section
18 518.14(4)(f) is amended to allow county mutual insurance
19 associations to invest in stocks that are issued or guaranteed
20 by limited partnerships publicly traded on a nationally
21 established stock exchange in the United States.

22 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section
23 518A.12(4)(f) is amended to allow state mutual insurance
24 associations to invest in stocks that are issued or guaranteed
25 by limited partnerships publicly traded on a nationally
26 established stock exchange in the United States.

27 RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section
28 521E.1(4) is amended to provide that for purposes of the Code
29 chapter, a fraternal benefit society organized under Code
30 chapter 512B is a domestic insurer. Code section 521E.1(4)(b),
31 which excepted a fraternal benefit society from inclusion as
32 a domestic insurer, is stricken. Corresponding changes to
33 include such a society are made in Code section 521E.1(6) and
34 (7).

35 Code section 521E.3(1)(a)(2) is amended to provide that for

1 a life and health insurer, a company-action-level event means
2 the insurer's total adjusted capital is greater than or equal
3 to its company-action-level risk-based capital but less than
4 the product of its authorized-control-level risk-based capital
5 and three, instead of two and one-half, and has a negative
6 trend.

7 LICENSING OF PUBLIC ADJUSTERS. Code section 522C.6 is
8 amended to add provisions allowing the commissioner of
9 insurance to hold hearings, issue cease and desist orders,
10 assess civil penalties, and petition for enforcement of those
11 orders by the district court against persons who violate
12 the provisions of Code chapter 522C. The district court is
13 authorized to adjudge a violator in civil contempt of an order
14 and to impose a civil penalty for contempt of not less than
15 \$3,000 but not more than \$10,000 for each violation and grant
16 any other relief the court determines is just and proper under
17 the circumstances.

18 DISSOLUTION OF MARRIAGE AND DOMESTIC RELATIONS. Code
19 section 598.20A is amended to provide that it is the policy
20 owner of an insurance contract insuring the policy owner's own
21 life, not the insured, who designates the beneficiary of the
22 policy and is authorized to make changes in that designation
23 after a decree of dissolution of marriage, annulment, or
24 separate maintenance.